

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO. 67 OF 2004

Mrs.Mita @ Pinky Anil Jhangiani.

... Applicant.

Versus.

Anil Sunder Jhangiani.

... Respondent.

Ms.Teja Katdare with Ms.Alpa Javeri for the Applicant.

Shri A.Majeed Memon for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 6th May, 2005.

P.C.:

1. After the Application was fully argued before me with a view to allow the parties to arrive at an amicable settlement, the matter was kept in Chamber. Both the learned Counsel appearing for the parties made efforts to see that the matter is settled. However, no settlement has taken place and today it is kept for passing orders.

2. The Applicant is the wife and the Respondent is the husband. The prayer in the application is for transfer of the petition filed by the Respondent-husband in the Family Court at Mumbai for a decree of divorce to the Court of the Civil Judge, Senior Division, Jalgaon.

3. The Applicant is the resident of Chalisgaon in the District Jalgaon. The Respondent-husband is the resident of Mumbai. The ground pleaded in the

application for transfer is that the Applicant is residing at Chalisgaon and there is nobody available to accompany her to attend the proceedings in the Family Court at Mumbai. The age of the father of the Applicant is 65 years who is suffering from heart problem and hyper-tension. The Applicant's married brother is a professional and is unable to accompany the Applicant to Mumbai for attending Family Court. The Applicant is surviving on the financial help given by her parents and brother. The case of the Applicant is that the family of the Respondent is very affluent and is having factories at various places.

4. A reply is filed by the Respondent opposing the Application for transfer. It is submitted that initially the Applicant agreed for an amicable settlement but later on she has backed out. It is contended that the Applicant has near relatives in Mumbai and therefore, she can attend the proceedings in the Family Court at Mumbai. It is stated that the father of the Applicant is very influential person in the area and therefore, the Respondent apprehends danger if he is required to attend the Court at Jalgaon. Reliance is placed by the Respondent on the decision of the Madhya Pradesh High Court reported in 1 (1997) DMC page 383 (Anjulla Verma v/s.Capt.Sudhir Verma) and a decision of the Rajasthan High Court reported in AIR 1997 Rajasthan page 191 (Fateh Kumari Sisodia v/s.State

of Rajasthan & ors.). He has also relied upon a decision of the Apex Court reported in 1(2005) DMC page 16 (Pratibha Khemka v/s.Sanjay Kumar Khemka).

5. I have heard the learned Counsel appearing for the parties at length. The Applicant is a resident of Chalisgaon. The Applicant is residing with her aged parents. Considering the distance between Chalisgaon and Mumbai, obviously it is very inconvenient for the Applicant-wife to attend the proceedings in the Family Court at Bandra, Mumbai. The apprehension of the Respondent is that the father of the Applicant is a very influential person and he apprehends danger if he visit Jalgaon.

6. There is an affidavit-in-rejoinder filed by the Applicant. The Applicant has set out various difficulties faced by her in attending the Family Court at Bandra, Mumbai. The Applicant has denied the allegations made in the affidavit-in-reply by the Respondent.

7. The prayer in the Application is for transfer of the Petition to the Court at Jalgaon. The father of the Applicant is a resident of Chalisgaon. There is nothing on record to substantiate the apprehension expressed by the Respondent regarding danger. If any such incident takes place, the remedies of the Respondent are always

open.

8. In a matter like this, the convenience of the wife is required to be seen. In my view a case for transfer is made out. Accordingly the Application is allowed in terms of prayer clause (c). There will be no order as to costs.

9. The parties and the concerned Court to act on authenticated copy of this order.

Judge.